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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/825,009	04/14/2004	Gary L. Graunke	42390.P7572C	9078

7590 07/22/2005

BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN LLP
Seventh Floor
12400 Wilshire Boulevard
Los Angeles, CA 90025

EXAMINER

GURSHMAN, GRIGORY

ART UNIT	PAPER NUMBER
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2132

DATE MAILED: 07/22/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

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Office Action Summary

Application No.

10/825,009

Applicant(s)

GRAUNKE ET AL.

Examiner

Grigory Gurshman

Art Unit

2132

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 April 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 37-94 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 37-94 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 4/14/2004
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Double Patenting

1. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

2. Claims 37-94 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 1-28 of U.S. Patent No.

6.731.758 B1. Although the conflicting claims are not identical, they are not patentably distinct from each other because the independent claims 37, 45, 53, 60, 67, 74, 81 and 88 of the instant applications have the limitations covering the same scope as the independent claims 1, 8, 12, 13, 19, 26, 30 and 31 of U.S. Patent No. 6.731.758 B1.

For example:

3. Claims **37, 45 and 81**, reciting "generating a plurality of frame keys based on a session key generated for a transmission session ..." corresponds to the claim **1** of U.S. Patent No. 6.731.758 B1, reciting "generating a successive number of frame keys, using at least the session key...".

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4. Claim **53**, reciting "a block cipher to generate a plurality of frame keys based on a session key..." corresponds to claim **13** of U.S. Patent No. 6.731.758 B1, reciting " a block cipher to generate a session key for a transmission session ... and to generate a successive number of frame keys, using the session key..."

5. Claims **60, 62, 67**, reciting "generating pseudo random bit sequence for each frame..." and "deciphering each of the frames using corresponding frame key" corresponds to claim **26** of U.S. Patent No. 6.731.758 B1, reciting "generating pseudo random bit sequence for each of the corresponding frames..." and "using at least the corresponding frame key ... for deciphering the video content of the respective frame".

6. Claim **74 and 88**, reciting "a block decipher to generate a plurality of frame keys based on a session key... a stream decipher coupled to the block decipher..." corresponds to claim **31** of U.S. Patent No. 6.731.758 B1, reciting "a block decipher to generate a session key for a reception session ... and to generate a successive number of frame keys a stream decipher coupled to the block decipher..."

7. All of the dependent claims of the instant application have corresponding claims in U.S. Patent No. 6.731.758 B1.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Grigory Gurshman whose telephone number is (571)272-3803. The examiner can normally be reached on 9 AM-5:30 PM.

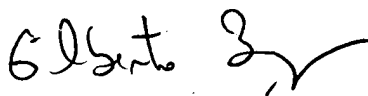
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gilberto Barron can be reached on (571)272-3799. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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Grigory Gurshman
Examiner
Art Unit 2132


GILBERTO BARRON JR.
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100